



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

July 9, 1999

S. 613 **Indian Tribal Economic Development and** **Contract Encouragement Act of 1999**

As ordered reported by the Senate Committee on Indian Affairs on June 16, 1999

SUMMARY

Based on information from the Department of the Interior (DOI) and the Bureau of Indian Affairs (BIA), CBO estimates that implementing S. 613 would reduce discretionary costs for BIA by a total of about \$2 million over the 2000-2004 period. The bill would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. S. 613 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that this mandate would impose minimal costs that would be far below the threshold established by that act (\$50 million in 1996, adjusted annually for inflation). Further, the bill would reduce the costs of an existing mandate, more than offsetting any new mandate costs. S. 613 contains no new private-sector mandates as defined in UMRA.

S. 613 would amend a provision of law (25 U.S.C. 81) to remove certain restrictions on contracts between Indian tribes and other parties. This provision, known as section 81, requires DOI's approval of all contracts involving payments between non-Indians and Indians for services relative to Indian lands. Under current law, any contract that is subject to this provision and is not approved by DOI can be declared null and void. As amended by S. 613, section 81 would only require approval of contracts that encumber Indian lands for a period of at least seven years. S. 613 would prohibit DOI from approving contracts that neither provide for remedies in the case of a breach of contract nor explicitly disclose or waive an Indian tribe's right to assert sovereign immunity as a defense in an action brought against it. In addition, the bill would amend the Indian Reorganization Act to remove a requirement that a tribe's choice of legal counsel and the fees to be paid to such counsel be subject to DOI approval.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Based on information from DOI and BIA, CBO expects that S. 613 would reduce the number of contracts the department has to review each year. CBO estimates that implementing this legislation would reduce costs for BIA by between \$300,000 and \$400,000 in each of fiscal years 2000 through 2004. Any change in overall BIA spending would be subject to appropriation action.

PAY-AS-YOU-GO CONSIDERATIONS: None.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Section 81 currently imposes a mandate on tribes to submit certain contracts for approval by the Secretary of the Interior. The bill would greatly reduce the number of contracts requiring approval, thus reducing the cost to tribes of the existing mandate. But under this bill, a tribe entering into a covered contract would have to include a specific statement regarding its sovereign immunity. This is an additional enforceable duty imposed on tribes, and so would constitute an intergovernmental mandate under UMRA. The cost of this mandate would be minimal, however. It would not affect the rights of either party under such contracts, but would only require that these rights be explicitly stated.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no new private-sector mandates as defined in UMRA.

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